



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,460	10/15/2003	Shigeki Motoyama	SON-1907/CON	4695

23353 7590 06/29/2005

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER

JORGENSEN, LELAND R

ART UNIT	PAPER NUMBER
----------	--------------

2675

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/684,460

Applicant(s)

MOTOYAMA ET AL.

Examiner

Leland R. Jorgensen

Art Unit

2675

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 22 and 23.
Claim(s) rejected: 14-21 and 24-28.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


SUMATI LEFKOWITZ
SUPERVISORY PATENT EXAMINER

Since all the proposed amendment are identical to the prior claims that were previously presented, the new claims are rejected for the reasons already stated in the final rejection.

Continuation of 11. does NOT place the application in condition for allowance because: Examiner rejected claims 14 - 21 and 24 - 28 under 35 U.S.C. 102(b) as being unpatentable over Burk in view of Itoh et al. and Kito et al., and under the judicially created doctrine of obviousness type double patenting as being unpatentable over U.S. Patent No. 6,690,362 B1 in view of Burk. In response, applicants argue that Burk teaches electrodes 26a and 26b that do not come into electrical contact with electrodes 30a and 30b. Whether, electrodes 26a and 26b come in contact with electrodes 30a and 30b is immaterial to the rejection. Examiner cited col. 1, lines 14 - col. 2, line 27 which is the background of the invention outlining the basis membrane switch described in the claims. Burk teaches an electronic apparatus having an input device. The input device comprises a sheet-type switch portion [conventional analog membrane switch] having a first sheet [top membrane], a second sheet [bottom membrane], a first electrode [two opposing parallel electrode strips across third and fourth parallel edges], and a second electrode [two opposing parallel electrode strips across first and second parallel edges]. The first and second electrodes are between the first sheet and the second sheet. The first electrode is structurally adapted to come into electrical contact with the second electrode. Burk, col. 1, line 14 - col. 2, line 27. Specifically Burk teaches "To construct such a conventional analog membrane switch, top and bottom membrane sheets are etched to form an uncoated, dielectric border surrounding a semiconductive rectangle. Next, electrodes are applied to each of the top and bottom membranes..." Burk, col. 1, lines 47 - 50. "The top and bottom membranes are then assembled by superimposing the top membrane over the bottom membrane, with the conductive surfaces facing each other." Burk, col. 2, lines 3 - 6. "The top and bottom membranes are normally maintained separate because of the presence of the array of dielectric projections. However, when the top membrane is depressed, it contacts the bottom membrane between the projections. The x and y coordinate locations of this point of depression can be obtained by monitoring voltage drops across the electrodes." Burk, col. 2, lines 7 - 14. Burk notes that "Construction and operation of conventional membrane switches is well known in the art." Burk, col. 2, lines 28-29. Thus, examiner finds applicants' arguments unpersuasive .